

NO. 22684

IN THE SUPREME COURT OF THE STATE OF HAWAII'I

In the Matter of
the Estate of BERNICE P. BISHOP,
Deceased

APPEAL FROM THE FIRST CIRCUIT COURT
Equity No. 2048

ORDER DISMISSING APPEAL

(By: Masuoka, Acting C.J., Ibarra, Kochi, Raffetto
and Chang, Acting JJ.)

Upon consideration of the record herein and the responses to the court's order to show cause as to why the appeal should not be dismissed as moot, it appears that: (1) Appellant Lindsey is appealing from the judgment and findings of fact and conclusions of law removing her as a Kamehameha Schools Bishop Estate Trustee; (2) prior to the completion of briefing, the Attorney General moved to dismiss this appeal on the ground that the appeal was moot because Appellant had submitted her permanent resignation as trustee; (3) Appellant opposed dismissal arguing that the appeal was not moot because the Attorney General might attempt to use the findings of fact at issue in the present appeal in the then pending proceeding for the permanent removal and surcharge of the trustees; (4) this court denied the motion to dismiss on February 25, 2000; (5) since that time, it has come

to this court's attention that the parties to the surcharge proceeding entered a settlement agreement, and the circuit court approved a Stipulated Order of Dismissal With Prejudice that was signed by all of the parties to the surcharge proceeding, including Appellant, and filed in the circuit court on December 22, 2000; (6) this court takes judicial notice of the agreement and order entered in Equity No. 2048 pending in the circuit court; (7) Appellant Lindsey fails to present sufficient reasons for the appeal to continue in light of her permanent resignation and the settlement of the surcharge proceeding; and (8) inasmuch as Appellant Lindsey submitted her permanent resignation and the surcharge proceeding has been dismissed, this court can offer no effective remedy, and this appeal has become moot. See AIG Hawai'i Ins. Co., Inc. v. Bateman, 82 Hawai'i 453, 459, 923 P.2d 395, 401 (1996) (the mootness doctrine is properly invoked where events have so affected the relations between the parties that the two conditions for justiciability relevant on appeal - adverse interest and effective remedy - have been compromised; the duty of the supreme court as of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions or to declare principles or rules of law

which cannot affect the matter in issue in the case before it).

Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed as moot.

DATED: Honolulu, Hawai'i, July 26, 2001.

Acting Chief Justice

Acting Associate Justice

Acting Associate Justice

Acting Associate Justice

Acting Associate Justice